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83-9-F

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June 29, 1983

Mr. George Langley, Jr., Chairman
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Mr. Robert Denz, Executive Director
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Fort Eddy Road
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Gentlemen:

As you know, SB 50 relative to bingo and Lucky 7 was signed into law by Governor Sununu on June 25, 1983, and will become effective on July 1, 1983. As this legislation, which will be codified as RSA 287-E, makes significant changes in present law, I am providing you with our analysis of the proper construction of the substantive provisions of SB 50.

1) License Fees: The major change resulting from the enactment of SB 50 is that there will no longer be a credit or refund on license fees. Compare RSA 287:6.



The license fee is only to be refunded if the application is denied. See RSA 287-E:4.

2) License Applications: RSA 287-E:5 requires greater accountability on the part of the applicant for a bingo license. Your current application form should be revised to require the following information:

- a) the position held by the applicant in the charitable organization, as only "officers, directors or duly authorized officials" may apply for a license. If a "duly authorized official" makes the application, proof of such authorization should be required.
- b) the certification, under oath, required by RSA 287-E:5,V.
- c) the charitable organization applying for the license satisfies the statutory definition set forth in RSA 287-E:1,V, i.e. that it is exempt from federal income tax; that it conducts activities other than bingo; that it has, if required, registered with the director of charitable trusts; that it has been in existence for two years in the city or town in which the games are to be conducted; and that it maintains a list of bona fide members.
- d) the hotel or private campground applying for a license satisfies the statutory definitions set forth in RSA 287-E:1,VII and VIII.
- e) if the games are to be run by non-members under the limited exceptions for youth groups or handicapped individuals set forth in RSA 287-E:1,I(a) and (b), the application should provide a space for listing the designated individuals.

Finally, with respect to license applications, we would suggest that the application form clearly state that failure to conduct bingo games in strict compliance with the provisions of RSA 287-E will subject the charitable organization to criminal prosecution under RSA 647 (see RSA 287-E:28) and/or to the penalties set forth in RSA 287-E:29.

3) Licensure: The most significant change from present law is that multiple licenses are prohibited. RSA 287-E:6,III. Accordingly, you should develop internal procedures to ensure that no more than one

charitable organization is licensed to conduct games at any one location on any one game date.

4) Operation of Bingo Games: Your inspectors should be clearly advised that:

- a) only "bona fide members," as defined in RSA 287-E:1,III may conduct games. The burden of proof to demonstrate that an operator holds "full and regular" membership is on the charitable organization, and your inspectors should insist upon proper documentation of such membership in periodic "spot checks" of operators.
- b) payment of out-of-pocket expenses to workers up to \$8.00 per game date is permitted, provided there is documentation of actual expenses. RSA 287-E:7,II. The inspectors should periodically require production of the itemized expenses submitted by the worker to the charitable organization.
- c) no fees may be charged for admission to games (RSA 287-E:7,IX) and no other games of chance, including raffles and lotteries, may be conducted at bingo games.
- d) the new \$1500.00 prize limit provided by RSA 287-E:7,XI is to be strictly enforced.
- e) the money collected from participants in the Winner-Take-All games is to be publicly collected, counted and displayed and is to be kept separately from all other funds collected; in addition, the total amount collected is to be publicly announced and recorded by an officer, director or authorized official. RSA 287-E:7,XIII(b) and (c).
- f) no "bonuses" are permitted to be added to the Winner-Take-All pool. RSA 287-E:7,XIII(d). Only the tax to be paid to the state under RSA 287-E:8 may be deducted from the Winner-Take-All pool, and no expenses whatsoever of the charitable organization may be deducted from the pool.

5) Financial Reports: The financial reports submitted by the charitable organizations should be carefully reviewed by the Commission to ensure that:

- a) the report is timely filed and completed. RSA 287-E:9,I.

b) the report has been completed by an officer, director, or designated official of the charitable organization, whose accounting is certified under oath. RSA 287-E:9,II.

c) the report contains all of the information required by RSA 287-E:9,III.

Any report which does not comply with RSA 287-E:9 should not be considered acceptable and the charitable should be instructed to complete and file a correctly completed form within a specified period of time. Inasmuch as the Commission has discretion under RSA 287-E:6 whether to issue bingo licenses, we strongly suggest that no new license be issued to any charitable organization which is delinquent in its filing of financial reports.

6) Financial Records: Your inspectors should be advised that periodic review of financial records should be conducted to ensure that the charitable organization is paying expenses over \$50.00 by check and prizes over \$1499.99 by check, as well as retaining its cancelled checks, and other records documenting such expenditures, for the specified period of two years. RSA 287-E:9,IV; RSA 287-E:9,VII.

7) Bingo Games at Agricultural Fairs and Senior Citizens Bingo: No major changes have been made in the laws governing the operation of these games.

8) Bingo Games at Private Campgrounds and Hotels: The operation of bingo games at campgrounds and hotels is governed by RSA 287-E:12 and 13. As these sections provide for a significant departure from the present practice of exempting only charitable organizations from the prohibition against gambling, the games should be carefully monitored to ensure that they are in compliance with the new law. Specifically, your inspectors should be fully informed that:

a) only "bona fide guests" of private campgrounds and hotels may participate in such games. RSA 287-E:12,VII. The list of bona fide guests maintained by the hotel or campground should be reviewed during inspections to ensure compliance with this requirement. See RSA 287-E:12,XIII.

b) all of the money received from the sale of cards is to be returned to the players in prizes, and the total amount of the prizes awarded on any one date cannot exceed \$500.00. RSA 287-E:12,V.

c) no more than two game dates of bingo per week are permitted. RSA 287-E:12,IV.

d) only staff members of the hotel or campground may operate the games, and they are to do so without compensation from the bingo revenues. RSA 287-E:12,VI.

e) games for children may be conducted, provided that there is no charge for play, and only non-monetary prizes, the value of which cannot exceed \$2.00, are awarded. RSA 287-E:12.

9) Lucky 7: The major changes in the law pertaining to Lucky 7 are as follows:

a) only bona fide members may sell Lucky 7 tickets, except that "salaried employees" (to be defined in regulations) of a licensed veterans or fraternal organization may sell tickets only on the premises of the organization. RSA 287-E:2,I.

b) Lucky 7 tickets may only be sold at the location specified in the license, subject to the limitations of RSA 287-E:21,II(a) or (b), and door-to-door sales are expressly prohibited.

c) out-of-pocket expenses may be reimbursed up to an amount not to exceed \$8.00 per day, provided such expenses are properly documented. RSA 287-E:21,IV.

d) a tax of 40 percent of the wholesale cost of the tickets is to be paid to the Commission within ten days after receipt of the tickets. RSA 287-E:22,I.

e) the financial report must now include the names and addresses of the ticket sellers and the name and address of the distributor. RSA 287-E:24,II. In addition, the report must now be completed under oath by an officer, director or designated official of the organization.

f) all expenses must be paid by check, and all prizes over \$500.00 must be paid by check; the cancelled checks and all other documentation of the information contained on the financial report must be retained for two years. RSA 287-E:24,IV and VII.

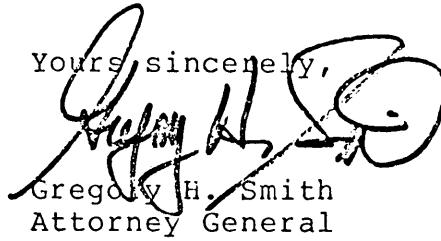
We remind you that the Commission is required to revoke the license of any licensee who violates any provision of RSA 287-E

pertaining to bingo or Lucky 7, and cannot issue a new license for up to one year following the revocation. RSA 287-E:14.

In view of the fact that charitable organizations must comply with the provisions of RSA 287-E on July 1, 1983, we have taken the liberty of revising the draft regulations which we submitted to you to conform to RSA 287-E, as it applies to the operation of bingo games by charitable organizations. A copy of the revised draft is enclosed for your consideration. Further regulations will be necessary to address the operation of bingo games by private campgrounds and hotels, as well as the sale of Lucky 7 tickets. We will, of course, be willing to assist you in drafting these regulations and we urge you to promulgate a complete and comprehensive set of regulations as soon as possible to avoid unnecessary confusion on the part of the operators of bingo games and to ensure consistent enforcement by your inspectors.

Please do not hesitate to contact this office if you have any further questions concerning the proper administration and enforcement of RSA 287-E.

Yours sincerely,



Gregory H. Smith
Attorney General

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